

| Notice of Allowability | Application No. | Applicant(s) | |
|-------------------------------|------------------------|---------------------|--|
| | 09/645,453 | GERHAHER, MAX | |
| | Examiner | Art Unit | |
| Tai T. Nguyen | | 2632 | |

-- **The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. This communication is responsive to 11/04/04.
2. The allowed claim(s) is/are 21-38 (renumbered as 1-18).
3. The drawings filed on 20 October 2003 are accepted by the Examiner.
4. Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some* c) None of the:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) hereto or 2) to Paper No./Mail Date _____.
 - (b) including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413), Paper No./Mail Date _____. |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date <u>11/04/04</u> | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

DETAILED ACTION

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Becker (Reg. No. 26,255) on November 24, 2004.

The application has been amended as follows:

Claim 31, line 1, "claim 35" should read as ---claim 25---.

Claim 32, line 1, "adapted to illuminating" should read as ---adapted to illuminate---.

Claim 36, line 2, insert ----and---- in front of "means for causing".

Allowable Subject Matter

2. Claims 21-38 are allowed (renumbered as 1-18).
3. The following is an examiner's statement of reasons for allowance: The prior art of record does not teach or suggest, in the claimed combination,

Regarding claim 21, the prior art of record does not teach or suggest, in the claimed combination, a method of warning a following vehicle that a leading vehicle, has applied its brakes, the method comprising:

during a fading period of illumination that commences at the end of said retention period of illumination, changing said retention period visual format of said brake light to a different visual format such that said brake light continues to be illuminated but has a different illuminated appearance during said fading period of illumination than its illuminated appearance during said retention period of illumination, said fading period of illumination having a prescribed blackout time at which the illumination of said brake light will cease, and

based upon a determined time at which said leading vehicle will come to a complete stop, alternatively (1) ceasing the illumination of said brake light at said prescribed blackout time in the event that said prescribed blackout time is not earlier than said determined time at which said leading vehicle will come to a complete stop or (2) delaying the time at which the illumination of said brake light will cease to a later blackout time which is no earlier than said determined time at which said leading vehicle will come to a complete stop in the event that said prescribed blackout time is earlier than said determined time at which said leading vehicle will come to a complete stop, whereby the actual time after an application of its brakes at which said leading vehicle will come to a complete stop will vary as a function of the speed of said leading vehicle and the manner of application of its brakes and the illumination duration of said brake light of said leading vehicle varies in correspondence with the actual time for said leading vehicle to come to a complete stop to ensure that said brake light remains illuminated until said leading vehicle comes to a complete stop.

Regarding claim 32, the prior art of record does not teach or suggest, in the claimed combination, an apparatus adapted to illuminating at least one brake light during a braking operation, comprising:

means for determining a momentary value of a braking value during the braking operation, wherein the braking value is a variable that is characteristic of the braking operation,

means for causing the at least one brake light to be illuminated during the braking operation in accordance with the determined momentary braking value, wherein increasing momentary braking values are represented by increasing illumination of the at least brake light,

means for determining a maximum momentary braking value achieved during the braking operation, and

means for maintaining the illumination of the at least brake light unaltered in accordance with the determined maximum momentary braking value until the momentary braking value becomes equal to or less than a predetermined fraction of the determined maximum momentary braking value.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tai T. Nguyen whose telephone number is (571) 272-2961. The examiner can normally be reached on Monday-Friday from 7:30am-5:00pm..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel J. Wu can be reached on (571) 272-2964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



December 7, 2004
Tai T. Nguyen
Examiner
Art Unit 2632